

Chapter CLXV.¹

ABATEMENT OF ELECTION CONTESTS.

1. Various conditions of. Sections 118-120.

118. The Illinois election case of Kunz v. McGavin, in the Sixtieth Congress.

Instance wherein the contestant entered into a written stipulation conceding the election of contestee.

The contestant having conceded the election of the contestee, the House confirmed the title of the sitting Member.

On May 26, 1908,² Mr. Michael E. Driscoll, of New York, from the Committee on Elections No. 3, submitted a report in the case of Kunz v. McGavin, from Illinois.

The official returns from the district gave the contestant 11,421 votes and the contestee 11,336 votes, a majority of 85 votes for the sitting Member.

After notice of contest had been served and an answer filed, but before the case had been passed upon by the House, the votes were recounted before the board of election commissioners of the city of Chicago, in which the district was located. On the recount the contestant was declared to have received 11,290 votes and the contestee 11,356 votes, a majority of 66 votes for the sitting Member. Thereupon the contestant, by his attorneys, entered into the following stipulation:

UNITED STATES OF AMERICA,

Eighth Congressional District of Illinois, ss.

STANLEY H. KUNZ, CONTESTANT, *v.* CHARLES MCGAVIN, CONTESTEE.

Election contest for seat of Member of House of Representatives from the Eighth Congressional district of Illinois. Election held November 6, 1906, to Sixtieth Congress

It is hereby stipulated by and between Stanley H. Kunz, contestant, and Charles McGavin, contestee, that the result of the recount of the actual ballots cast at the congressional election for Member of the House of Representatives from the Eighth Congressional district of Illinois, held on the 6th day of November, 1906, showed that said Charles McGavin received 11,356 votes, and Stanley H. Kunz received 11,290 votes; and that therefore said Charles McGavin, contestee, was duly elected from said district by a plurality of 66 votes, as shown by the tabulated vote hereto annexed.

¹Supplementary to Chapter XXIV.

²First session Sixtieth Congress, House Report No. 1777; Record, p. 7011; Moores' Digest, P. 35.

And it is further stipulated and agreed by and between said parties that they and each of them waive the printing of any of the record in said contest, in so far as such waiver does not conflict with the rules of said House of Representatives.

WILLIAM C. ASAY and
J. B. O'CONNELL,
Attorneys for Contestant.
ROBERT S. ILES,
Attorney for Contestee.

The contestant took no further action in the case, and the committee reported:

That the said contestant has not applied to this committee for a hearing or further consideration of his case.

Your committee therefore concurs in the stipulation made by the interested parties in this case and recommends its approval, and further recommends the adoption of the following resolutions, to wit:

"Resolved, That Stanley H. Kunz was not elected a Representative in the Sixtieth Congress from the Eighth Congressional district of the State of Illinois.

"Resolved, That Charles McGavin was duly elected a Representative in the Sixtieth Congress from the Eighth Congressional district of the State of Illinois and is entitled to a seat therein."

The resolutions were agreed to by the House without debate or division.

119. The Louisiana election case of Warmoth v. Estopinal, in the Sixtieth Congress.

Instance wherein an election contest was instituted by memorial.

The contestant having announced by letter the abandonment of his contest, the papers were laid on the table.

On December 9, 1908,¹ the Speaker laid before the House a memorial of Henry C. Warmoth, alleging illegality in the nomination and election of Albert Estopinal as a Member for the first congressional district, in the State of Louisiana, and praying that the said Henry C. Warmoth be declared entitled to the seat. This memorial was referred to the Committee on Elections No. 1.

On January 25, 1909, the Speaker presented a communication from the contestant addressed to the Speaker, in which the contestant stated that it would be impossible for him to take evidence and present the same to the committee before the final adjournment of the Sixtieth Congress, and he therefore withdrew his contest. This communication was also referred to the committee, and on January 29, 1909,² Mr. James R. Mann, of Illinois, submitted the report of the committee, as follows:

The Committee on Elections No. 1, to whom was referred the memorial of H. C. Warmoth, contesting the right of Hon. Albert Estopinal to a seat in the House of Representatives from the First Congressional district of Louisiana, and also a letter from Mr. Warmoth stating that he withdraws his contest, beg leave to respectfully report and recommend that said memorial and petition do lie on the table.

A motion by Mr. Mann that the papers lie upon the table was agreed to without debate or division.

¹ Second session Sixtieth Congress, Journal, pp. 39, 40; Record, p. 73.

² Second session Sixtieth Congress, House Report No. 1993; Journal, p. 233; Record, p. 1620.

120. The Iowa election case of Hepburn v. Jamieson in the Sixty-first Congress.

Instance of abandonment of a contest by notification from contestant to the committee.

On June 18, 1910,¹ Mr. Michael E. Driscoll, from the Committee on Elections No. 3, submitted the report of the committee in the Iowa case of Hepburn v. Jamieson.

The official returns do not appear of record, but a stipulation between the contestant and contestee agrees that the former received 20,126 votes and the latter 20,436 votes, a majority of 310 votes for the sitting Member.

With this stipulation was filed a further written agreement arranging for the time and place of taking testimony. No other papers were submitted in the case.

The report says:

With these papers is a memorandum, apparently written in the office of the Clerk of the House of Representatives, but not signed or dated, which reads as follows:

"In the case of William P. Hepburn against William D. Jamieson, of the eighth district of Iowa, no testimony was received, but stipulations and agreements on the part of attorneys for contestant and contestee were filed."

This comprises all of the record and all of the papers submitted for the consideration of this committee in said contest.

This committee has been notified by Hon. William P. Hepburn, contestant, that he does not intend to prosecute the contest further.

Therefore your committee respectively recommends the adoption of the following resolutions:

"*Resolved*, That William P. Hepburn was not elected a Member of the Sixty-first Congress from the Eighth Congressional district of the State of Iowa and is not entitled to a seat therein.

"*Resolved*, That William D. Jamieson was elected a Member of the Sixty-first Congress from the Eighth Congressional district of the State of Iowa and is entitled to a seat therein."

On June 23² the report was agreed to without debate or division.

¹ Second session Sixty-first Congress, House Report No. 1637; Journal, p. 805; Record, p. 8498.

² Second session Sixty-first Congress, Journal, pp. 827, 828; Record, p. 8830; Moores' Digest, p. 42.